

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF MISSOURI

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In re:

INTERSTATE BRANDS CORPORATION,  
Debtor.

Chapter 11  
Case No. 04-45816 (JWV)  
Jointly Administered

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**PROOF OF CLAIM OF THE UNITED STATES ON BEHALF OF  
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

1. This Proof of Claim is filed by the Attorney General of the United States at the request of the United States Environmental Protection Agency (“EPA”). The Attorney General is authorized to make this Proof of Claim on behalf of the United States. This Proof of Claim relates to the recovery, under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. §§ 9601-9675, of response costs incurred and to be incurred by the United States in connection with the Hows Corner Superfund Site in Plymouth, Maine (“Site”).

2. Interstate Brands Corporation (“Debtor”) is liable to reimburse the United States’ response costs, including enforcement costs and prejudgment interest on response costs, because it arranged for disposal or treatment of hazardous substances (or arranged for transport of hazardous substances for disposal or treatment) at the Site, within the meaning of CERCLA Section 107(a)(3), 42 U.S.C. § 9607(a)(3).

3. The Site encompasses approximately 17 acres in Plymouth, Maine. From roughly 1965 to 1980, Portland Bangor Waste Oil (“PBWO”) operated a waste oil storage

and transfer facility at the Site. The Site is a “facility” within the meaning of CERCLA Section 101(9), 42 U.S.C. § 9601(9).

4. PBWO transported waste oil to the Site from area businesses and government agencies, including the John J. Nissen Baking Company, a manufacturer and wholesale distributor of baked goods located in Brewer, Maine. From 1976 to 1980, the Debtor arranged for PBWO to take 577.5 gallons of waste oil containing hazardous substances within the meaning of CERCLA Section 101(14), 42 U.S.C. § 9601(14), from the Brewer facility to the Site for treatment or disposal. Debtor is the successor to John J. Nissen Baking Company.

5. At the Site, there have been actual and threatened releases of hazardous substances, within the meaning of CERCLA Section 101(22), 42 U.S.C. § 9601(22). Waste oils were leaked, spilled and disposed of at the Site and have contaminated the Site’s soils and groundwater. Hazardous substances, such as 1,2-dichloroethane, 1,1,1-trichloroethane, and tetrachloroethane, have been detected in the groundwater. These hazardous substances are migrating away from the Site.

6. In response to the actual and threatened releases of hazardous substances at the Site, EPA has incurred, and will continue to incur, response costs that are not inconsistent with the National Contingency Plan. EPA’s response actions have included the excavation and off-site disposal of contaminated soils, and the design and construction of an alternative water supply for residences near the Site. On September 29, 1995, EPA listed the Site on the National Priorities List.

7. The Debtor has reimbursed EPA for its share of the response costs incurred regarding the Site prior to March 31, 2000. Since March 31, 2000, EPA has incurred additional unrecovered costs of approximately \$1.1 million plus interest in connection with the Site.

8. In September 2002, EPA selected an interim remedy for the Site which included construction and operation of a hydraulic containment system for an area of highly contaminated groundwater and extensive institutional controls to restrict the use of groundwater on several residential properties. EPA anticipates that it will select a final remedy for the Site in 2006, and is currently evaluating its options to address the remaining groundwater and indoor air issues at the Site. EPA anticipates that it may implement the interim and final remedies for the Site, and estimates that future response costs at the Site will total approximately \$10 million.

9. Because the Debtor arranged for disposal or treatment of hazardous substances (or arranged for transport of hazardous substances for disposal or treatment), within the meaning of CERCLA Section 107(a)(3), 42 U.S.C. § 9607(a)(3), as described above in paragraph 4, the Debtor is liable to the United States for all unreimbursed response costs incurred and to be incurred by the United States in connection with the Site, including enforcement costs and prejudgment interest on response costs.

10. The Debtor is liable for the United States' unreimbursed past and future response costs as described above in connection with the Site.

11. The Debtor's liability to the United States is joint and several with other liable parties at the Site.

12. The United States reserves the right to update its estimate of future response costs at the Site.

13. No judgments have been rendered on the claim asserted herein.

14. No payments to the United States have been made by the Debtor on this claim other than as described above.

15. This Proof of Claim is without prejudice to any right under 11 U.S.C. § 553 to set off against this claim, and debts owed (if any) to the Debtor by this or any other federal agency.

16. No perfected security interests are held for this claim.

17. This claim is filed as a general unsecured claim, except as to any insurance proceeds or rights of set off which secure this claim.

18. This claim is in addition to a claim being filed by the United States at the request of the U.S. Environmental Protection Agency under Subchapter VI of the Clean Air Act, 42 U.S.C. § 7671-7671q.

Respectfully submitted,

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U.S. Department of Justice

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